Families for Addiction Recovery

Meeting of The Toronto Board of Health June 14th, 2021
Item HL 29.2 Toronto Overdose Action Plan: Status Report 2021

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Families for Addiction Recovery (FAR) was founded by parents whose children have struggled with substance use disorder from their early teens. FAR exists because the needs of our families are not being met. We expect our children to receive treatment, not punishment, for being ill. That rarely happened in 2016 when we started, and it still rarely happens today.

For the fourth time, FAR supports Dr. De Villa's recommendations, particularly the need to decriminalize the possession of drugs for personal use and a safer supply.

There are only two new points to be made.

The first is that FAR would like to respectfully request that someone on the Board move to amend Recommendation 3(a) to the Federal Minister of Health to add the words "everywhere in Canada, as opposed to on a city-by-city basis" so that it reads as follows:

"a. use the authority under the Controlled Drugs and Substances Act to permit the simple possession of all drugs for personal use **everywhere in Canada, as opposed to on a city-by-city basis,** and further, to support the immediate scale up of prevention, harm reduction, and treatment services; and"

According to the 2016 Census, there were over 5,000 municipalities in Canada. Are we really going to do this on a city-by-city or municipality-by-municipality basis? Our criminal laws fall under federal jurisdiction. When someone is convicted of committing a crime they are labelled as "criminals" which can have serious and harmful lifelong effects. The same activity should be criminal or not-criminal across Canada. How can the federal government justify criminalizing someone for possession if they are standing here, but not if they are standing there? Decriminalization should be national in scope. Anything less is illogical, inequitable and unethical.

Secondly, the Canadian Society of Addiction Medicine (CSAM) recently issued a Policy Brief in favour of the decriminalization of drug use and possession for personal use, a copy of which is attached to this submission. I am a co-author. To summarize:

- the evidence is that criminalization is ineffective;
- the evidence supports decriminalization of drug use and possession for personal use.

The evidence does not change based on where someone is standing in Canada.

Thank -you.

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CJA—JCA

Policy Brief: CSAM in Support of the Decriminalization of Drug Use and Possession for Personal Use

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INTRODUCTION

Current Canadian drug policy reflects an antiquated understanding of substance use as originating from moral failure. Although Substance Use Disorder is now better understood as a multifactorial chronic remitting and relapsing disease defined in the DSM-5, existing policies continue to criminalize drug use, further exacerbating existing health inequities. This policy brief will summarize the resulting harms from the criminalization of drug use and the available evidence of an increasingly supported alternative referred to as decriminalization. Based on this growing body of evidence, the Canadian Society of Addiction Medicine (CSAM) endorses the decriminalization of drug use and possession for personal use.

EVIDENCE THAT CRIMINALIZATION IS INEFFECTIVE

Current Canadian drug policy originates with the Controlled Drugs and Substances Act of 1996 which categorizes various substances by corresponding punitive consequences implemented through the criminal justice system. It is noteworthy that this delineation between legal and illegal drugs does not correspond with their associated harms. A multicriteria decision analysis determined that the most harmful drug is alcohol (which remains legal) and that some drugs with minimal harms such as LSD or mushrooms remain illegal.[1] Nevertheless, the policy's stated purpose of sentencing is to contribute to the "maintenance of a just, peaceful and safe society while encouraging rehabilitation, and treatment in appropriate circumstances".[2] However, this policy is neither maintaining public safety nor is it encouraging rehabilitation and treatment.

First, consider the criminal justice system's ineffectiveness in mitigating the prevalence and associated harms of drug use. The rate of offences for drug possession has remained relatively steady from 2014 to 2018 (18.73 to 19.1 per 100,000).[3] Yet the Canadian Tobacco Alcohol and Drug Survey reported an increase in past-year illegal drug use (excluding cannabis) from 678,000 in 2015 up to 987,000 in 2017.[4] A majority of drug users in Vancouver have reported most illegal drugs were readily available within 10 minutes, despite a renewed emphasis on drug law enforcement at that time. The opioid crisis—first declared a public health emergency in British Columbia in 2016—continues to worsen, with 14,700 opioid-related deaths between 2016 and 2019[5] despite significant resource allocation toward the criminal justice system. The costs of illegal substances (excluding cannabis) on the Canadian criminal justice system were approximately $4 billion in 2014.[6]

Second, consider the harms associated with a criminal conviction according to the Canadian Bar Association: challenges with housing, employment, inability to volunteer or travel, and possible deportation for immigrants. Persons with a history of imprisonment are half as likely to obtain an appointment with a family physician than controls (despite a universal healthcare system). Prospective tenants have also been requested to provide criminal records, which is a discriminatory practice. For those on social welfare in prime working age, 15% cited the "need for record suspension" as a critical barrier to employment.[7]

Third, consider the harms that specifically affect the very population current drug policy seeks to rehabilitate. For those with Opioid Use Disorder (OUD) in correctional settings, only 26% reported access to Opioid Agonist Therapy (OAT). Among this percentage, only 9% were new initiations. In other words, most individuals with OUD entering into the correctional system are not identified and therefore do not receive appropriate treatment.[8] The lack of treatment is especially problematic given the same study also found that accessing OAT while incarcerated correlated with fewer (non-fatal) overdoses.

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Further, current drug policy is fundamentally unjust because it harms populations already made vulnerable by racial and socioeconomic inequities. Substance use is an important challenge in Indigenous communities; however, its criminalization fails to acknowledge the intergenerational systematic marginalization from cultural oppression, cultural erosion and economic exclusion. In the context of the continued opioid crisis, which disproportionately affects Indigenous peoples of Canada, the criminalization of drug use is inconsistent with reconciliation.[9] Further, the criminalization of drug use across Canada disproportionately impacts Black Canadians. Black and Indigenous people were both overrepresented in cannabis possession arrests (before the Cannabis Act) despite a similar frequency of use across racial groups.[10] Incarcerated pregnant women also face unique risks. For example, opioid withdrawal during pregnancy can cause intrauterine growth restriction, premature delivery, miscarriage, and stillbirth.[11] Some women may rely on sex work or low-level drug dealing for survival, yet they are subject to equally harsh sanctions as those who are not forced to make such decisions for the sake of economic survival. Incarcerated women in Canada have reported multiple barriers to accessing health services that resulted in treatment interruption and poor mental and physical health, all of which have contributed to addiction and crime upon release.[12]

Finally, law enforcement worsens health outcomes in the community. A systematic review on drug market violence and drug law enforcement found that disrupting drug markets through drug law enforcement is unlikely to reduce violence and can paradoxically increase violence.[13] Increased police activity on intravenous drug users (IVDU) has discouraged safer injection practices while also increasing rushed injections, riskier injection practices, and unsafe syringe disposal.[14] A prospective cohort study exploring the impact of a police crackdown on intravenous drug use found no difference in street price or daily heroin or cocaine use. However, it did report an increase in unsafe syringe disposal, and a reduction of syringes returned to the needle exchange program.[15]

Internationally, these dynamics have led to calls for an alternative approach given the widely recognized failure of the war on drugs. Global health initiatives note that criminalizing drug use is incompatible with the fight against HIV infection. The decriminalization of drug use may support the goal of eliminating Hepatitis C as a public health concern. The United Nations (UN) Economic and Social Council have noted anti-drug policies contribute to violence, disease, discrimination, forced displacement, injustice, and undermines people's right to health. The *International Guidelines on Human Rights and Drug Policy,* endorsed by the World Health Organization, the UN Development Program and UN AIDS, supports member states decriminalizing drug possession for personal use.[16]

EVIDENCE SUPPORTING DECRIMINALIZATION

Decriminalization of drug possession refers to eliminating criminal penalties for personal use and could instead impose non-criminal penalties such as a fine. A comprehensive review of 25 countries implementing decriminalization noted that despite considerable variation in personal possession criteria and associated penalties, it was clear that (i) removing criminal sanctions for personal possession did not lead to dramatic increases in prevalence rates, and (ii) the harms of criminalization far outweighed those of decriminalization.[17] Portugal is highlighted because its policy change was explicitly in response to a perceived national drug problem, and its reframing of the issue corresponded with significant public health investments.

Contrary to predictions, the Portuguese decriminalization did not lead to a decrease in the price of illegal drugs.[18] Further, there were reductions in problematic use, drug-related harms, and criminal justice overcrowding. While post-decriminalization usage rates of most drugs have remained roughly the same (or slightly decreased) compared to other EU states, drug-related harms have reduced dramatically. This has been attributed to both an enhanced ability of the government to offer treatment and to a reduction in stigma which results in more people seeking treatment.

Critics of the Portugal model cite several methodological limitations in the research, such as a failure to recognize other factors and a lack of data on adverse trends. It is also difficult to gauge decriminalization's contribution to reductions in drug-related complications due to a lack of high-quality empirically-based studies. A critical re-examination of the evidence's interpretation has noted both proponents and critics have been selective with the data. Nevertheless, this re-examination agrees there have been net benefits in Portugal, but heeds caution in overstating the evidence.[19] Regardless, it is understood that decriminalization is not a silver bullet—it must be paired with reform in health and social justice to achieve long-lasting benefits.

GROWING SUPPORT

In April 2019, the BC Provincial Health Officer recommended decriminalizing drug use. In the context of the COVID-19 pandemic, the opioid epidemic continues to escalate. For example, British Columbia reported record overdose deaths in back-to-back months (175 in June 2020, which was nearly 15 times the number of COVID-

related deaths in the same period).[20] Numerous organizations have recently expressed their support for decriminalizing drug use and possession for personal use, including the Toronto Board of Health, the Canadian Public Health Association, the Canadian Mental Health Association, the Canadian Drug Policy Coalition, and the Canadian Association of Chiefs of Police.[21]

CONCLUSIONS

Current Canadian drug policy, specifically the criminalization of drug use and possession for personal use, is not supported by the evidence. It has failed to mitigate the harms of drug use which continue to rise, and it perpetuates existing health inequities, particularly among already marginalized populations. Drug decriminalization has demonstrated some success internationally, prompting the growing calls from numerous national and international public health organizations for this approach to be adopted more widely. Given that the CSAM strives to advocate for the population most impacted by this misguided policy of criminalization, CSAM joins the growing calls for decriminalizing drug use and possession for personal use.

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